

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE PETITION OF )</b> <b>POTLATCH CORPORATION FOR AN ORDER )</b> <b>DETERMINING THE TERMS AND )</b> <b>CONDITIONS FOR POTLATCH'S PURCHASE )</b> <b>OF ELECTRICITY FROM AVISTA UTILITIES. )</b> <hr style="width: 40%; margin-left: 0;"/>	<b>)</b> <b>)</b> <b>)</b> <b>)</b> <b>)</b> <b>)</b> <b>)</b>	<b>CASE NO. AVU-E-01-5</b>        <b>ORDER NO. 28787</b>
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On June 28, 2001, Monsanto Company (Monsanto) filed a late Petition to Intervene in Case No. AVU-E-01-5. Pursuant to Order No. 28725 the Commission set May 25, 2001 as the deadline for submitting timely petitions for intervention in this proceeding.

Monsanto identifies itself as a special contract customer of PacifiCorp. The Commission's determination on the unique issues presented in this case, Monsanto contends, could result in Commission Orders which establish a precedent that may substantially affect Monsanto's special contract with PacifiCorp.

Monsanto contends that it has many similarities with Potlatch's situation:

Like Potlatch, Monsanto is a large industrial customer which receives 9 megawatts of firm power and 206 megawatts of interruptible power pursuant to a special contract that has been in effect since November 1, 1995; PacifiCorp is attempting to terminate this contract December 31, 2001; the parties have been negotiating for many months but have been unable to reach an agreement; and Monsanto may also be required to petition the Commission for an order requiring its serving utility to provide electric service to its Soda Springs, Idaho facility and setting a fair, just and reasonable rate for such service.

Avista, Monsanto contends, appears to be asserting positions and raising issues relative to its obligation to supply Potlatch which are new and unique and seemingly at odds with Idaho law and the fundamental precepts of regulation. Particularly, Avista, it states, appears to reject the principle that rates should be based upon cost of service using Avista's embedded cost. Avista, it states, appears to claim that it does not have a legal obligation to serve Potlatch and/or can compel Potlatch to purchase the majority of its needs on the open market. If these positions asserted by Avista were accepted by the Commission, the precedent established, Monsanto contends, would have direct, substantial and adverse impact on the manner in which rates are

established for Monsanto's special contract, whether as a result of ongoing negotiations or resulting from further proceedings before this Commission.

Without the opportunity to intervene herein, Monsanto contends that it will be without a manner or means of participating in the lawful determination of issues which could affect its rates for electric service. Monsanto contends that it has no interest in the exact rate or other terms of any special contract or tariff established for Avista and Potlatch in this proceeding. However, Monsanto states that it does have a direct and substantial interest in the ratemaking principles and policies established relating to any positions asserted by Avista or any other regulated public utility in Idaho that they do not have an obligation to serve its customers based upon embedded cost of service or that upon expiration of a special contract a customer could be treated as a new customer and forced to acquire service at market rates. Monsanto desires an opportunity to carefully monitor these proceedings; and, if appropriate, participate in hearings, cross-examine witnesses and present testimony and evidence.

Monsanto acknowledges that its Petition to Intervene is not timely filed. Monsanto contends that pursuant to Rule 73 of the Commission's Rules of Procedure, the Commission could grant the Petition and impose such conditions as deemed appropriate to prevent disruption, prejudice to existing parties or undue broadening of the issues. Monsanto contends that it had no reason to expect prior to the filing of testimony by Avista on June 18 that new and precedent setting issues would exist in this case.

Avista opposes the Petition of Monsanto as untimely. Avista claims that it did not offer any issues in its testimony that were not previously raised in its Answer. The Commission's Order No. 28725, the Company states, extensively outlined the issues raised and specifically discussed Avista's positions over the course of three full pages of the Order. Avista contends that this matter is a limited proceeding between Avista and Potlatch and that Monsanto's participation would unduly broaden the issues and undoubtedly slow the proceeding and hinder executing a follow on contract. Intervention, Avista states, is unnecessary because Monsanto may still participate in this proceeding as a public witness pursuant to Commission Rule of Procedure 76.

### **Commission Findings**

The Commission has reviewed Monsanto's Petition for Intervention and Avista's related filing. While noting that Monsanto failed to file a timely petition for intervention, we

find that Monsanto has articulated a direct and substantial interest in the subject matter of this proceeding. Reference IDAPA 31.01.01.074. This Commission has always had a liberal intervention policy. We find that Monsanto's participation will neither delay the proceedings nor broaden the issues presented in this case.

We further find that based on the pleadings and the documents filed in this case, intervention by this party would serve the purposes of intervention as described by Rule 74 of the Rules of Procedure and should be granted.

### **ORDER**

In consideration of the foregoing, IT IS HEREBY ORDERED that the Petition to Intervene filed by Monsanto Company in Case No. AVU-E-01-5 is hereby granted.

IT IS FURTHER ORDERED that all parties in this proceeding serve all papers hereafter filed in this matter on all parties of record. This intervenor is represented by the following for the purposes of service:

Randall C. Budge  
Racine, Olson, Nye, Budge & Bailey, Chartered  
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James R. Smith  
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PO Box 816, Highway 34 North  
Soda Springs, ID 83276

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this  
day of July 2001.

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PAUL KJELLANDER, PRESIDENT

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MARSHA H. SMITH, COMMISSIONER

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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

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Barb Barrows  
Assistant Commission Secretary

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